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COMMENTARY

The International Treaty Against Racial Discrimination

BRUNO V. BITKER*

On December 21, 1965, the General Assembly of the United Nations unanimously adopted the International Convention on the Elimination of All Forms of Racial Discrimination.¹ Because of its breadth and scope it was acclaimed as a milestone. Secretary-General U Thant, in addressing the Assembly at the time said:

In the Charter, the peoples of the United Nations proclaimed their determination to reaffirm faith in human rights and in the dignity and worth of the human person. The Convention which the General Assembly has just adopted represents a significant step towards the achievement of that goal. Not only does it call for an end to racial discrimination in all its forms; it goes on to the next, and very necessary, step of establishing the international machinery which is essential to achieve that aim.²

The Convention provided in Article 19 that it should come into force after being ratified or acceded to by no less than twenty-seven member states. It came into force on January 4, 1969, after Poland became the twenty-seventh state to ratify.

The United States was a leading participant in the long process of drafting the document; it voted for its adoption; it signed the document; on numerous occasions its representatives at the United Nations have proclaimed support for the principles of the Convention. Nevertheless, the United States has not yet ratified the treaty. Indeed, the President has not sent the treaty to the United States Senate for its advice and consent to ratification pursuant to our constitutional practice.

It is difficult not only for foreigners to understand why the United States has been so reluctant to join with other nations in ratifying human rights treaties, but it is equally so for many Americans, both lawyers and laymen, to understand this failure to act.

THE CONSTITUTIONAL SUPPORT FOR HUMAN RIGHTS TREATIES

When the idea of ratifying human rights treaties was first seriously considered by the legal profession in the United States, there was a respectable number of lawyers who were quite concerned about the constitutionality of asserting such rights and responsibilities through international agreements. It was felt by those opposed that because,

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¹ U.N. Doc. A/RES/2106 (XX) (1966), hereafter cited as CONVENTION. The text of the Convention is printed in the Appendix at page 14, *infra*.

² 3 U.N. MONTHLY CHRONICLE, January, 1966, at 103.

under our constitution, treaties become the supreme law of the land, nothing which was of domestic concern should be the subject of an international agreement. To hold otherwise, it was asserted, would be to break down the federal-state barriers that existed in the United States. In addition, there was, as there continues to be, the sentiment that anything which could be considered an intrusion on our unfettered sovereignty was anathema to our way of life.

The supremacy of treaties is basic to our form of government under Article VI of the U.S. Constitution which declares that treaties "shall be the Supreme Law of the Land." Under Article II, Section 2, of the Constitution the President "shall have the power with the advice and consent of the Senate to make treaties, provided two thirds of the Senators present concur."

As broad as the treaty-making power may seem to be under the language of the Constitution, it cannot rise above the Constitution itself. Thus, in *Geofrey v. Riggs*,³ the Court said:

It would not be contended that [the treaty-making power] extends so far as to authorize what the Constitution forbids, or a change in the character of the government or in that of one of the States, or a cession of any portion of the territory of the latter, without its consent. But with these exceptions, it is not perceived that there is any limit to the questions which can be adjusted touching on any matter which is properly the subject of negotiations with a foreign country.⁴

Certainly no one would now assert that condemnation of racial discrimination is rising above the U.S. Constitution.

It is also suggested that if a matter is of domestic concern, it cannot also be of such international concern as to justify a treaty on the subject. Clearly racial discrimination is of domestic concern; it is obviously true that it is also of international concern as evidenced by the disturbance to the peaceful relationship between nations over such national policies as apartheid. That matters can come under both domestic law and international agreements has been the rule for a long time. The decision most frequently cited is that of *Missouri v. Holland*,⁵ which upheld a treaty with Canada for the protection of migratory birds. As the Court said,

No doubt it is true that as between a State and its inhabitants the State may regulate the killing and sale of such birds, but it does not follow that its authority is exclusive of paramount powers.⁶

³ 133 U.S. 258 (1890).

⁴ *Id.* at 267.

⁵ 252 U.S. 416 (1920).

⁶ *Id.* at 434. For a fuller discussion of the treaty power as it relates to the general subject, see Henkins, *The Constitution, Treaties, and International Human Rights*, 116 U. PA. L. REV. 1012 (1968).

The argument which seeks to oppose ratification of human rights treaties on constitutional grounds has been disposed of in the direct language of the Report of the Special Committee of Lawyers of the President's Commission for the Observance of Human Rights Year, of which Justice (Retired) Tom C. Clark of the U.S. Supreme Court was Chairman.

It may seem almost anachronistic that this question continues to be raised. It is nearly a quarter of a century since this country used the treaty power to become a party to the U.N. Charter one of whose basic purposes is the promotion of human rights for all. The list of parties to the various human rights treaties proposed by the U.N. has become longer each year. In each of the last 2 years the U.S. Senate has approved a human rights treaty without a single dissenting vote. In December 1968, the Chief Justice of the United States noted that "We as a nation should have been the first to ratify the Genocide Convention and the Race Discrimination Convention." And yet the suggestion persists that this Nation is constitutionally impotent to do what we and the rest of the world have, in fact, been doing.⁷

U.N. CHARTER PROVISIONS ON HUMAN RIGHTS

The international protection of human and individual rights was a principal objective of the United Nations from the organization's inception in 1945. The Preamble to the United Nations Charter reaffirms "faith in fundamental human rights,"⁸ Article I spells out as one of the main purposes of the organization the "promoting and encouraging respect for human rights and for fundamental freedoms without distinction as to race, sex, language or religion."⁹

Support of human rights is a theme running throughout the Charter. Under Article 13, the General Assembly has the duty of initiating studies and making recommendations for the purpose of "assisting in the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion."¹⁰ Article 55 places a duty upon the Organization to promote "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion."¹¹ Article 56 requires all members to "pledge themselves to take joint and separate action in cooperation with the Organization for the achievement of the purposes set forth in Article 55."¹² The only functional commission specifically provided for in the Charter, is under Article 68, a commission "for the promotion of human rights."¹³

⁷ REPORT OF THE SPECIAL COMMITTEE OF LAWYERS OF THE PRESIDENT'S COMMISSION FOR THE OBSERVANCE OF HUMAN RIGHTS YEAR (1969).

⁸ U.N. CHARTER, 59 Stat. 1035 (1945).

⁹ *Id.* at 1037.

¹⁰ *Id.* at 1039.

¹¹ *Id.* at 1045.

¹² *Id.* at 1046.

¹³ *Id.* at 1047.

The United States, in 1945, after an almost unanimous vote of the Senate, ratified and thus became bound by the Charter. Justice Black, in his concurring opinion in *Oyama v. California*,¹⁴ thus states the recognition to be accorded to the Charter provisions:

There are additional reasons now why that law stands as an obstacle to the free accomplishment of our policy in the international field. One of these reasons is that we have recently pledged ourselves to cooperate with the United Nations to promote . . . universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion. How can this nation be faithful to this international pledge if State laws which bar land ownership and occupancy by aliens on account of race are permitted to be enforced?¹⁵

Phillip C. Jessup, formerly a member of the International Court of Justice, thus summarizes the effect of adherence to the Charter:

It is already law at least for members of the United Nations, that respect for human dignity and fundamental rights is obligatory. The duty is imposed by the Charter, a treaty to which they are parties.¹⁶

It was expected by many of the delegates to the San Francisco conference in 1945 when the United Nations Charter was adopted, that an International Bill of Rights might be approved and made part of the Charter. But time did not permit a reconciliation of the many ideas advanced for such a document and the broad, basic principles were therefore made a part of the Charter, and the human rights commission was expected subsequently to submit an appropriate instrument.¹⁷

President Truman, at the conclusion of the sessions at San Francisco on June 26, 1945, thus expressed the intention of the signatories to the Charter:

Under this document we have good reason to expect the framing of an International Bill of Rights, acceptable to all nations involved. That Bill of Rights will be as much a part of international life as our own Bill of Rights is a part of our Constitution.¹⁸

Unfortunately it was not easy to attain the kind of treaty thus anticipated by President Truman. The first document produced, in fact, was not a treaty but a declaration. In 1948 the United Nations approved the Universal Declaration of Human Rights.¹⁹ This document was not designated as a covenant or a convention or a treaty. It was, however, a statement of principles which were, in the words of

¹⁴ 332 U.S. 633 (1947).

¹⁵ *Id.* at 649-50.

¹⁶ P. Jessup, *MODERN LAW OF NATIONS* 91 (1948).

¹⁷ *REVIEW OF U.N. CHARTER*, S. DOC. NO. 164, 83d Cong., 2d Sess. 320 (1954).

¹⁸ *PUBLIC PAPERS OF THE PRESIDENTS, 1945*, at p. 142 (1961).

¹⁹ U.N. Doc. A./810 (1948); 18th REPORT OF THE COMM'N TO STUDY THE ORGANIZATION OF PEACE, THE UNITED NATIONS AND HUMAN RIGHTS 193 (1968).

the Declaration, to serve "as a common standard of achievement." Despite the fact that the Declaration, like our own Declaration of Independence, was not law in the usual sense, it achieved a certain status of its own. It became a part of the constitutions of many newly created States and was incorporated into older constitutions by reference.²⁰

The piecemeal development of an International Bill of Rights has gone on ever since 1948. Beginning with the adoption of a treaty in 1948 which made genocide an international crime, there have been a series of treaties approved by the United Nations and its specialized agencies covering specific rights referred to in the Declaration. This process, too, is not dissimilar to what has been followed in the United States through the adoption over the years of amendments to our constitution protecting specific rights of the individual.

Thus, from the outset, the United Nations was not only dedicated to the broad protection of human rights but specifically to the elimination of racial discrimination. In the same slow process by which national statutes of a significant nature are adopted by the U.S. Congress, considerable time elapsed before the international community in the United Nations could agree upon the provisions of a document outlawing racial discrimination. In 1963 the General Assembly adopted a Declaration of the Elimination of All Forms of Racial Discrimination.²¹ It was supported by the United States. Two years later, in 1965, the Convention on the Elimination of All Forms of Racial Discrimination was unanimously adopted by the General Assembly.²² It also had United States support.

PROVISIONS OF THE CONVENTION

The Convention consists of a Preamble and three Parts which in turn are divided into 25 separate Articles. No attempt is made in this paper to cover each and every provision.²³ Broadly speaking, Part I, consisting of seven articles, is substantive and covers the definition and specific obligations of the parties; Part II, with nine articles, includes implementation; and Part III, the last nine articles, covers certain house-keeping matters, including provisions for reservations, termination, and reference to the International Court of Justice.

The Preamble is in broad terms. It reaffirms the philosophy of the United Nations "that discrimination between human beings in the ground of race, colour, or ethnic origin is an obstacle to friendly and peaceful relations among nations and is capable of disturbing peace

²⁰ E. SCHWELB, *HUMAN RIGHTS AND THE INTERNATIONAL COMMUNITY* 34 (1964).

²¹ UN/OPI/151-63 (1963).

²² CONVENTION, *supra* note 1.

²³ For a detailed review of the substantive articles of the Convention, see Schwelb, *The International Convention on the Elimination of All Forms of Racial Discrimination*, 15 INT'L & COMP. L. Q. 966 (1966).

and security among peoples.”²⁴ It asserts that the parties to the convention are “Convinced that any doctrine of superiority based on racial differentiation is scientifically false, morally condemnable, socially unjust and dangerous, and that there is no justification for racial discrimination in theory or in practice anywhere.”²⁵ It thus not only characterizes racial discrimination as a cause of war but it dismisses any attempt to support it on scientific grounds or justify it on moral grounds. A preamble, of course, is not an operative portion of an agreement; it does, however, fix the background against which specific articles can be interpreted.

DEFINITION OF DISCRIMINATION

Article I (being one of seven articles constituting Part I) at the outset defines “racial discrimination” to

mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.²⁶

Although this definition appears all-inclusive, it caused considerable discussion during the drafting process. There was an early effort to specifically name anti-semitism to the list of condemned activities. The United States joined in pressing for an amendment to that effect.²⁷ However, the proposal was eventually voted down on the basis that no specific form of racial discrimination need be spelled out.²⁸ Dr. Schwelb concludes that “The phenomenon known as anti-Semitism is therefore ‘racial discrimination’ within the meaning of the Convention.”²⁹ This issue might well be resolved some day by the International Court of Justice under Article 22.³⁰

The second point of interest in the definition is the use of the phrase “other field of public life.” If the use of this phrase is accepted as limiting the condemned acts only to those in the field of public life, then there is no problem under our constitution. If, however, at some future date the definition shall be construed to cover all activity, in or out of public life, then it may be necessary to determine whether a particular act is excluded from the very broad area now included by the Supreme Court under the equal protection clause as referred to hereinafter.

²⁴ CONVENTION, p. 15, *infra*.

²⁵ *Id.* at 15.

²⁶ *Id.* at 15.

²⁷ U.N. Doc. A/C. 3/L. 1211 (1965).

²⁸ U.N. Doc. A/C. 3/L. 1244 (1965).

²⁹ Schwelb, *The International Convention on the Elimination of All Forms of Racial Discrimination*, 15 INT'L & COMP. L. Q. 996, 1014 (1966).

³⁰ For a fuller discussion of the question of anti-Semitism, see Coleman, *The Problem of Anti-Semitism*, 11 HUMAN RIGHTS J. 609 (1969).

BASIC NATIONAL OBLIGATIONS

Article 2 states the basic obligations of the parties. They are set out more specifically in Articles 3 to 7 with a detailed itemization in Article 5. Article 2 requires each nation to "condemn discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms . . ." ³¹ To this end each nation when becoming a party

(a) . . . undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation;

(b) . . . undertakes not to sponsor, defend or support racial discrimination by any persons or organizations;

(c) . . . shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists;

(d) . . . shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization;

(e) . . . undertakes to encourage, where appropriate, integrationist multi-racial organizations and movements and other means of eliminating barriers between races, and to discourage anything which tends to strengthen racial division. ³²

If, as it appears, the treaty deals solely with discrimination in the "field of public life" then none of the foregoing obligatory provisions would raise any constitutional questions. If, however, the definition in Article I (1) were construed to cover areas of private activity, then it would be necessary to ascertain whether the particular discrimination in a private level would be permitted under our Constitution or by Act of Congress. It is important to note, too, that the requirement to act must be "by all appropriate means," a phrase which may refer to procedures only but which conceivably could exclude unconstitutional acts or unlawful legislation.

Article 3 specifically condemns "apartheid." ³³ It appears to add nothing to the broad provisions of Article 2. The inclusion of this one word to identify a specific form of discrimination rather than relying on the broad classifications, has been explained on the theory that since it was the official policy of South Africa, a member of the United Nations, it had to be separately noted. ³⁴

³¹ CONVENTION, p. 16, *infra*.

³² *Id.* at 16.

³³ *Id.* at 16.

³⁴ U.N. Doc. A/C. 5/S R. 1313 (1965).

CONSTITUTIONAL FREE SPEECH AND ASSOCIATION ISSUE

The provisions of Article 4 have been cited as containing a requirement repugnant to our constitutionally protected right of free speech and association. Article 4 provides that the parties shall

condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic group, which attempt to justify or promote racial discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination³⁵

The clause then continues with these words of limitation,

with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in Article 5 of this Convention³⁶

To this end, the article continues, the parties, *inter alia*

(a) Shall declare an offense punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof;

(b) Shall declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination, and shall recognize participation in such organizations or activities as an offense punishable by law;

(c) Shall not permit public authorities or public institutions, national or local, to promote or incite discrimination.³⁷

Because what might appear on the surface to be constitutionally objectionable in Article 4, it is important to analyze its breadth and its limitations. The latter are two-fold: first, whatever a nation may be expected to do shall be done "with due regard" to the principles of the Universal Declaration and, second, to the rights spelled out in Article 5 of the Convention. The latter article is an expressed effective limitation since it is part of the Convention. But the Universal Declaration is equally an effective limitation since it is incorporated by reference. It is as binding on the parties as though it had been spelled out in full.

The Universal Declaration states principles in broad terms. It is not, like a treaty on a specific evil, such as racial discrimination, expected to be as exact in its language. It is significant, therefore, to note the provisions of the Universal Declaration relating to freedom of speech and to peaceful assembly. They read as follows:

³⁵ CONVENTION, p. 17, *infra*.

³⁶ *Id.* at 17.

³⁷ *Id.* at 17.

Article 19. Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20. (1) Everyone has the right to freedom of peaceful assembly and association.

(2) No one may be compelled to belong to an association.³⁸

These provisions should overcome constitutional doubts.

The provisions of Article 5 of the Convention itself, however, are equally restrictive. The pertinent provisions of the article which "guarantee the right of everyone" to the enjoyment of a list of rights include: "the right to freedom of peaceful assembly and association"³⁹ and "the right to freedom of opinion and expression."⁴⁰

CONSTITUTIONAL EQUAL PROTECTION

If, perchance, the phrase "other field of public life" were not construed to limit the activities otherwise identified in the definition (Article 1), then consideration can be given to the long series of cases which indicate the broad concept of what is in the public domain and under the 14th Amendment equal protection clause.⁴¹

*Jones v. Alfred E. Mayer Co.*⁴² is of especial significance because it reached back to the Civil Rights Act of 1866⁴³ for authority to sustain open housing not only under state action but as against purely private discrimination as well. A later case, *Sullivan v. Little Hunting Park, Inc.*,⁴⁴ cites the *Jones* case for the proposition "that it (the 1866 Congressional Act) reaches beyond state action and operates upon the unofficial acts of private individuals."⁴⁵ The *Sullivan* case held the Civil Rights Act of 1866 operated with respect to a private swimming pool used by residents of a private housing project.

The Supreme Court said in *United States v. Guest*:⁴⁶

In a variety of situations the Court has found state action of a nature sufficient to create rights under the Equal Protection

³⁸ U.N. Doc. A./810 (1948); 18th REPORT OF THE COMM'N TO STUDY THE ORGANIZATION OF PEACE, THE UNITED NATIONS AND HUMAN RIGHTS 195 (1968).

³⁹ CONVENTION, p. 18, *infra*.

⁴⁰ *Id.* at 18.

⁴¹ *Daniel v. Paul*, 395 U.S. 298 (1969) (amusement park); *Jones v. Alfred E. Mayer Co.*, 392 U.S. 409 (1968) (housing); *United States v. Guest*, 383 U.S. 745 (1966) (state public accommodations); *South Carolina v. Katzenbach*, 383 U.S. 301 (1966) (voting rights); *Burton v. Wilmington Parking Authority*, 365 U.S. 715 (1961) (service in a restaurant); *Henderson v. United States*, 339 U.S. 816 (1950) (railroad dining car); *Sweatt v. Painter*, 339 U.S. 629 (1950) (law school); *Shelley v. Kraemer*, 334 U.S. 1 (1948) (housing); *Missouri v. Canada*, 305 U.S. 337 (1938) (Negro's right to attend state law school).

⁴² 392 U.S. 409 (1968).

⁴³ 42 U.S.C. § 1982 (1964).

⁴⁴ 396 U.S. 229 (1969).

⁴⁵ *Id.* at 235.

⁴⁶ 383 U.S. 745 (1966).

Clause even though the participation of the State was peripheral, or its action was only one of several co-operative forces leading to the constitutional violation.⁴⁷

. When the Convention was originally signed for the United States there was a specific constitutional question to the requirement of eliminating racial discrimination under Article 5 (d) (iv) which protected "the right to marriage and choice of spouse." The final word had not been heard at the time on state statutes prohibiting miscegenation, the prevention of marriages between races. The next year, 1967, the question was resolved in *Loving v. Virginia*,⁴⁸ when the court struck down a Virginia statute prohibiting miscegenation.

The State of Virginia had argued "that marriage has traditionally been subject to state regulation without federal intervention . . ."⁴⁹ It is correct that this has been the tradition. But the Equal Protection Clause is now recognized as superior to tradition. "We have consistently denied the constitutionality of measures which restrict the rights of citizens on account of race,"⁵⁰ said the Court.

UNDERSTANDINGS AND RESERVATIONS

If, despite the breadth of the Equal Protection Clause and the limitations on Article 4, the President or the Senate believe there need be an understanding or even a reservation, then the statement of the U.S. Representative to the U.N., Ambassador Arthur J. Goldberg, made at the time of signing the Convention for the United States on September 28, 1966, should suffice. It reads:

The Constitution of the United States contains provisions for the protection of individual rights, such as the right of free speech, and nothing in the Convention shall be deemed to require or to authorize legislation or other action by the United States of America incompatible with the provisions of the Constitution of the United States of America.⁵¹

Any nation can state at the time it ratifies a treaty what it understands it to mean. This is, however, a unilateral commitment. To make it a part of a treaty requires a reservation. Under Article 20 reservations are permitted if they satisfy the article. It reads as follows:

1. The Secretary-General of the United Nations shall receive and circulate to all States which are or may become parties to this Convention reservations made by States at the time of ratification or accession. Any State which objects to the reservation shall, within a period of ninety days from the date of the said communication, notify the Secretary-General that it does not accept it.

⁴⁷ *Id.* at 755-56.

⁴⁸ 388 U.S. 1 (1967).

⁴⁹ *Id.* at 7.

⁵⁰ *Id.* at 11-12.

⁵¹ United States Mission to the U.N., Press Release No. 4920, Sept. 26, 1966.

2. A reservation incompatible with the object and purpose of this Convention shall not be permitted, nor shall a reservation the effect of which would inhibit the operation of any of the bodies established by the Convention be allowed. A reservation shall be considered incompatible or inhibitive if at least two-thirds of the States Parties to this Convention object to it.⁵²

These provisions are broad. Anything acceptable to over one third of the parties would appear to support a reservation.

IMPLEMENTATION

In acclaiming the Convention as unique among treaties adopted by the United Nations, most references were to the provisions for implementation. Implementation is a word that has come into common use in the language of the United Nations to describe not only the mechanics for carrying into effect the provisions of any treaty, but particularly to cover what might be considered enforcement. In the commonly accepted meaning of enforcement by way of charges, trials, convictions, punishments, the implementation features of this Convention do not exist. On the other hand this is the first United Nations human rights treaty which contemplates doing something more far-reaching than the usual provisions which at best constitute a reporting procedure.

Part II of the Convention, Articles 8 to 16, covers the implementation procedure. It creates, under Article 8 (1),

a Committee on the Elimination of Racial Discrimination consisting of eighteen experts . . . impartially selected by (the) Parties from amongst their nationals who shall serve in their personal capacity, consideration being given to equitable geographical distribution and to the representation of different forms of civilizations as well as of the principal legal systems.⁵³

The members are to serve for a term of four years.

The Committee shall consider, under Article 9, reports from the parties as to what steps each nation has taken through its legislature, its judiciary, its executive, or by other measures, which give effect to the treaty provisions. The Committee is to report annually to the General Assembly with its recommendations.

The Committee, under Article 11, shall consider complaints of one party against another. If the matter is not satisfactorily adjusted, an Ad Hoc Conciliation Commission shall be appointed in accordance with the procedure spelled out in Article 12. It shall, under Article 13, make its recommendations for the amicable solution of the dispute. If the affected States shall not within three months accept the Conciliation Commission's recommendations the report is submitted to all other parties to the Convention and presumably they will decide on further action.

⁵² CONVENTION, pp. 24-25, *infra*.

⁵³ *Id.* at 19.

INDIVIDUAL PETITIONS

The foregoing provisions on implementation relate solely to complaints by one nation against another nation. But a particularly unique element of the Convention is the optional recognition by the parties of the right of individuals to petition. Article 14 provides that the Committee is competent "to receive and consider communications from individuals or groups of individuals within its jurisdiction claiming to be victims of a violation: of the rights protected by the Convention as to any State which specifically elects to recognize this procedure."⁵⁴ It is correct that the word communication is used instead of petition. The United Nations, always sensitive to possible invasion of national sovereignty, does not easily approve a citizen presenting it with a petition against his own government. The word "communication" seemed more palatable. However, subsection 2 identifies the communications as being "petitions."⁵⁵ Again, in subsection 4, there is a requirement to maintain a "register of petitions,"⁵⁶ There can be little doubt of what was intended: the individual was to be able to deliver the message.

What appears to be a barrier to an early consideration of a petition from an individual is the provision respecting exhaustion of available remedies. The provision reads:

The Committee shall not consider any communication from a petition unless it is ascertained that the petitioner has exhausted all available domestic remedies. However, this shall not be the rule where the application of the remedies is unreasonably prolonged.⁵⁷

An attempt to interpret this rule to require an individual first to go through every possible municipal or state or national agency, judicial or non-judicial, would impose an impossible burden on an individual complainant. It is obvious that the Committee would have to adopt some rule of reasonableness on this point.⁵⁸

Despite the fact that the rights thus accorded to an individual are granted only if a nation specifically submits to it, nevertheless, for the first time in history, a United Nations human rights Convention has authorized individuals and groups of individuals to petition to an international entity for the redress of wrongs inflicted upon them by the country of which they are nationals. In this respect alone the treaty is a clear breakthrough in the field of human rights.

THE COMMITTEE ON COMPLAINTS

Because the Committee to be named under Article 8 was to consist

⁵⁴ *Id.* at 22.

⁵⁵ *Id.* at 22.

⁵⁶ *Id.* at 22.

⁵⁷ *Id.* at 23.

⁵⁸ See Schaffer & Weissbrodt, *Exhaustion of Remedies*, 11 HUMAN RIGHTS J. 632 (1969).

only of representatives of ratifying states, the significance of prompt ratification by the United States was recognized by concerned Americans. Unfortunately, as Professor Newman warned, it is now too late for the United States to influence the original rules of procedure adopted or the selection of first officers elected.⁵⁹ This was done at the opening meeting of the parties to the Convention held July 10, 1969, and subsequently.

As important as the rules and the officers may be, even more so is the membership of the Committee which has been selected under Article 8. These are representatives of the following eighteen nations: Pakistan, India, Ukrainian S.S.R., Nigeria, Philippines, United Kingdom, United Arab Republic, Costa Rica, Ghana, Federal Republic of Germany, Yugoslavia, Poland, Ecuador, Cyprus, Kuwait, Swaziland, U.S.S.R., and Czechoslovakia.⁶⁰

The heavy representation of eastern bloc countries is evident: the absence of the United States, ineligible because of failure to ratify, is disturbing.

THE INTERNATIONAL COURT OF JUSTICE

A significant provision in Part III is that respecting the International Court of Justice. It reads as follows:

Any dispute between two or more States Parties over the interpretation or application of this Convention, which is not settled by negotiation or by the procedures expressly provided for in this Convention, shall at the request of any of the parties to the dispute be referred to the International Court of Justice for decision, unless the disputants agree to another mode of settlement.⁶¹

This is recognized as a standard provision in international treaties. A similar provision was contained in the treaty on slavery, unanimously approved by the Senate in 1967, and in the treaty on refugees, unanimously approved by the Senate in 1968.⁶²

In commenting on a similar provision in the Genocide Convention, which came into force in 1950, although not yet ratified by the United States, the Digest of International Law says that

It is a stock provision not substantially unlike that found in many multipartite instruments.⁶³

CONCLUSION

Recently, February 27, 1970, President Nixon in a letter to the

⁵⁹ See Newman, *The New International Tribunal on Racial Discrimination*, 55 CALIF. L. REV. 1559 (1969).

⁶⁰ See OFFICIAL RECORDS: FIRST MEETING OF STATE PARTIES, U.N., 1970 CERD/SP/3.

⁶¹ CONVENTION, p. 25, *infra*.

⁶² See S. EXEC. REP. No. 4, 90th Cong., 2d Sess. 11 (1968), in which the Committee on Foreign Relations refers to other treaties with similar clauses.

⁶³ DIGEST OF INTERNATIONAL LAW 857 (M. Whiteman ed. 1968).

chairman of the Ad Hoc Committee on Human Rights Treaties concerning the Genocide treaty, said:

The United States should stand second to no other country in its dedication to safeguarding human rights and basic freedoms, both at home and abroad.

Although it may not be obligatory, there is an implication that when a nation, at least our nation, signs a treaty, it indicates that the President intends to send it to the Senate for its advice and consent to ratification. This should now be done. Joining with the other nations that have ratified the Convention on the Elimination of All Forms of Racial Discrimination would be in the interest of the international community and in the national interest of the United States.

APPENDIX

INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION

THE STATES PARTIES TO THIS CONVENTION.

Considering that the Charter of the United Nations is based on the principles of the dignity and equality inherent in all human beings, and that all Member States have pledged themselves to take joint and separate action in co-operation with the Organization for the achievement of one of the purposes of the United Nations which is to promote and encourage universal respect for and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

Considering that the Universal Declaration of Human Rights proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set out therein, without distinctions of any kind, in particular as to race, colour or national origin,

Considering that all human beings are equal before the law and are entitled to equal protection of the law against discrimination and against any incitement to discrimination,

Considering that the United Nations has condemned colonialism and all practices of segregation and discrimination associated therewith, in whatever form and wherever they exist, and that the Declaration on the Granting of Independence to Colonial Countries and Peoples of 14 December 1960 (General Assembly resolution 1514 (XV)) has affirmed and solemnly proclaimed the necessity of bringing them to a speedy and unconditional end,

Considering that the United Nations Declaration on the Elimination of All Forms of Racial Discrimination of 20 November 1963 (General Assembly resolution 1904 (XVIII)) solemnly affirms the necessity of speedily eliminating racial discrimination throughout the world in all

its forms and manifestations and of securing understanding of and respect for the dignity of the human person,

Convinced that any doctrine of superiority based on racial differentiation is scientifically false, morally condemnable, socially unjust and dangerous, and that there is no justification for racial discrimination, in theory or in practice, anywhere,

Reaffirming that discrimination between human beings on the grounds of race, colour or ethnic origin is an obstacle to friendly and peaceful relations among nations and is capable of disturbing peace and security among peoples and the harmony of persons living side by side even within one and the same State,

Convinced that the existence of racial barriers is repugnant to the ideals of any human society,

Alarmed by manifestations of racial discrimination still in evidence in some areas of the world and by governmental policies based on racial superiority or hatred, such as policies of *apartheid*, segregation or separation,

Resolved to adopt all necessary measures for speedily eliminating racial discrimination in all its forms and manifestations and to prevent and combat racist doctrines and practices in order to promote understanding between races and to build an international community free from all forms of racial segregation and racial discrimination,

Bearing in mind the Convention on Discrimination in Respect of Employment and Occupation adopted by the International Labour Organisation in 1958, and the Convention Against Discrimination in Education adopted by the United Nations Educational, Scientific and Cultural Organization in 1960,

Desiring to implement the principles embodied in the United Nations Declaration on the Elimination of All Forms of Racial Discrimination and to secure the earliest adoption of practical measures to that end,

Have agreed as follows:

PART I

Article 1

1. In this Convention the term "racial discrimination" shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.
2. This Convention shall not apply to distinctions, exclusions, restrictions or preferences made by a State Party to this Convention between citizens and non-citizens.
3. Nothing in this Convention may be interpreted as affecting in any way the legal provisions of State Parties concerning nationality, citizen-

ship or naturalization, provided that such provisions do not discriminate against any particular nationality.

4. Special measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure to such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided, however, that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved.

Article 2

1. States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms, and promoting understanding among all races, and to this end:

(a) Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation;

(b) Each State Party undertakes not to sponsor, defend or support racial discrimination by any persons or organizations;

(c) Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists;

(d) Each State Party shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization;

(e) Each State Party undertakes to encourage, where appropriate, integrationist multi-racial organizations and movements and other means of eliminating barriers between races, and to discourage anything which tends to strengthen racial division.

2. States Parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them for the purpose of guaranteeing them the full and equal enjoyment of human right and fundamental freedoms. These measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved.

Article 3

States Parties particularly condemn racial segregation and *apart-*

heid and undertake to prevent, prohibit and eradicate, in territories under their jurisdiction, all practices of this nature.

Article 4

States Parties condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination, and to this end, with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of this Convention, *inter alia*:

(a) Shall declare an offense punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof;

(b) Shall declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination, and shall recognize participation in such organizations or activities as an offense punishable by law;

(c) Shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination.

Article 5

In compliance with the fundamental obligations laid down in article 2, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

(a) The right to equal treatment before the tribunals and all other organs administering justice;

(b) The right to security of person and protection by the State against violence or bodily harm, whether inflicted by Government officials or by any individual, group or institution;

(c) Political rights, in particular the rights to participate in elections, to vote and to stand for election—on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service;

(d) Other civil rights, in particular:

(i) the right to freedom of movement and residence within the border of the State;

- (ii) the right to leave any country, including his own, and to return to his country;
 - (iii) the right to nationality;
 - (iv) the right to marriage and choice of spouse;
 - (v) the right to own property alone as well as in association with others;
 - (vi) the right to inherit;
 - (vii) the right to freedom of thought, conscience and religion;
 - (viii) the right to freedom of opinion and expression;
 - (ix) the right to freedom of peaceful assembly and association;
- (e) Economic, social and cultural rights, in particular:
- (i) the rights to work, free choice of employment, just and favourable conditions of work, protection against unemployment, equal pay for equal work, just and favourable remuneration.
 - (ii) the right to form and join trade unions;
 - (iii) the right to housing;
 - (iv) the right to public health, medical care and social security and social services;
 - (v) the right to education and training;
 - (vi) the right to equal participation in cultural activities;
- (f) The right of access to any place of service intended for use by the general public such as transport, hotels, restaurants, cafes, theatres, parks.

Article 6

States Parties shall assure to everyone within their jurisdiction effective protection and remedies through the competent national tribunals and other State institutions against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination.

Article 7

States Parties undertake to adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to racial discrimination and to promoting understanding, tolerance and friendship among nations and racial or ethnical groups, as well as to propagating the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, and this Convention.

PART II

Article 8

1. There shall be established a Committee on the Elimination of Racial Discrimination (hereinafter referred to as the Committee) consisting of eighteen experts of high moral standing and acknowledged impartiality elected by States Parties from amongst their nationals who shall serve in their personal capacity, consideration being given to equitable geographical distribution and to the representation of the different forms of civilizations as well as of the principal legal systems.
2. The members of the Committee shall be elected by secret ballot from a list of persons nominated by the States Parties. Each State Party may nominate one person from among its own nationals.
3. The initial election shall be held six months after the date of the entry into force of this Convention. At least three months before the date of each election the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within two months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated indicating the States Parties which have nominated them and shall submit it to the States Parties.
4. Elections of the members of the Committee shall be held at a meeting of States Parties convened by the Secretary-General at the Headquarters of the United Nations. At that meeting, for which two-thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of State Parties present and voting.
5. (a) The members of the Committee shall be elected for a term of four years. However, the terms of nine of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these nine members shall be chosen by lot by the Chairman of the Committee.
(b) For the filling of casual vacancies, the State Party whose expert has ceased to function as a member of the Committee shall appoint another expert from among its nationals subject to the approval of the Committee.
6. The States Parties shall be responsible for the expenses of the members of the Committee while they are in performance of Committee duties.

Article 9

1. The States Parties undertake to submit to the Secretary-General for consideration by the Committee a report on the legislative, judicial, administrative, or other measures that they have adopted and that give effect to the provisions of this Convention: (a) within one year after

the entry into force of the Convention for the State concerned; and (b) thereafter every two years and whenever the Committee so requests. The Committee may request further information from the States Parties.

2. The Committee shall report annually through the Secretary-General to the General Assembly on its activities and may make suggestions and general recommendations based on the examination of the reports and information received from the States Parties. Such suggestions and general recommendations shall be reported to the General Assembly together with comments, if any, from States Parties.

Article 10

1. The Committee shall adopt its own rules of procedure.
2. The Committee shall elect its officers for a term of two years.
3. The secretariat of the Committee shall be provided by the Secretary-General of the United Nations.
4. The meetings of the Committee shall normally be held at the Headquarters of the United Nations.

Article 11

1. If a State Party considers that another State Party is not giving effect to the provisions of this Convention, it may bring the matter to the attention of the Committee. The Committee shall then transmit the communication to the State Party concerned. Within three months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.
2. If the matter is not adjusted to the satisfaction of both parties, either by bilateral negotiations or by any other procedure open to them, within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter again to the Committee by notice given to the Committee and also to the other State.
3. The Committee shall deal with a matter referred to it in accordance with paragraph 2 of this article after it has ascertained that all available domestic remedies have been invoked and exhausted in the case, in conformity with the generally recognized principles of international law. This shall not be the rule where application of the remedies is unreasonably prolonged.
4. In any matter referred to it, the Committee may call upon the States Parties concerned to supply any other relevant information.
5. When any matter arising out of this article is being considered by the Committee, the States Parties concerned shall be entitled to send a representative to take part in the proceedings of the Committee, without voting rights, while the matter is under consideration.

Article 12

1. (a) After the Committee has obtained and collated all the information it thinks necessary, the Chairman shall appoint an *ad hoc* Conciliation Commission (hereinafter referred to as "the Commission") comprising five persons who may or may not be members of the Committee. The members of the Commission shall be appointed with the unanimous consent of the parties to the dispute, and its good offices shall be made available to the States concerned with a view to an amicable solution to the matter on the basis of respect for this Convention.

(b) If the States Parties to the dispute fail to reach agreement on all or part of the composition of the Commission within three months, the members of the Commission not agreed upon by the States Parties to the dispute shall be elected by two-thirds majority vote by secret ballot of the Committee from among its own members.

2. The members of the Commission shall serve in their personal capacity. They shall not be nationals of the States Parties to the dispute or of a State not Party to this Convention.

3. The Commission shall elect its own Chairman and adopt its own rules of procedure.

4. The meetings of the Commission shall normally be held at the Headquarters of the United Nations, or at any other convenient place as determined by the Commission.

5. The secretariat provided in accordance with article 10, paragraph 3, shall also service the Commission whenever a dispute among States Parties brings the Commission into being.

6. The States Parties to the dispute shall share equally all the expenses of the members of the Commission in accordance with estimates to be provided by the Secretary-General.

7. The Secretary-General shall be empowered to pay the expenses of the members of the Commission, if necessary, before reimbursement by the States Parties to the dispute in accordance with paragraph 6 of this article.

8. The information obtained and collated by the Committee shall be made available to the Commission and the Commission may call upon the States concerned to supply any other relevant information.

Article 13

1. When the Commission has fully considered the matter, it shall prepare and submit to the Chairman of the Committee a report embodying its findings on all questions of fact relevant to the issue between the parties and containing such recommendations as it may think proper for the amicable solution of the dispute.

2. The Chairman of the Committee shall communicate the report of the Commission to each of the States Parties to the dispute. These States shall within three months inform the Chairman of the Committee

whether or not they accept the recommendations contained in the report of the Commission.

3. After the period provided for in paragraph 2 of this article, the Chairman of the Committee shall communicate the report of the Commission and the declarations of States Parties concerned to the other States Parties to this Convention.

Article 14

1. A State Party may at any time declare that it recognizes the competence of the Committee to receive and consider communications from individuals or groups of individuals within its jurisdiction claiming to be victims of a violation by that State Party of any of the rights set forth in this Convention. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration.

2. Any State Party, which makes a declaration as provided for in paragraph 1 of this article may establish or indicate a body within its national legal order which shall be competent to receive and consider petitions from individuals and groups of individuals within its jurisdiction who claim to be victims of a violation of any of the rights set forth in this Convention and who have exhausted other available local remedies.

3. A declaration made in accordance with paragraph 1 of this article and the name of any body established or indicated in accordance with paragraph 2 of this article, shall be deposited by the State Party concerned with the Secretary-General of the United Nations, who shall transmit copies thereof to the other State Parties. A declaration may be withdrawn at any time by notification to the Secretary-General, but such a withdrawal shall not affect communications pending before the Committee.

4. A register of petitions shall be kept by the body established or indicated in accordance with paragraph 2 of this article, and certified copies of the register shall be filed annually through appropriate channels with the Secretary-General on the understanding that the contents shall not be publicly disclosed.

5. In the event of failure to obtain satisfaction from the body established or indicated in accordance with paragraph 2 of this article, the petitioner shall have the right to communicate the matter to the Committee within six months.

6. (a) The Committee shall confidentially bring any communication referred to it to the attention of the State Party alleged to be violating any provision of this Convention, but the identity of the individual or groups of individuals concerned shall not be revealed without his or their express consent. The Committee shall not receive anonymous communications.

(b) Within three months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

7. (a) The Committee shall consider communications in the light of all information made available to it by the State Party concerned and by the petitioner. The Committee shall not consider any communication from a petitioner unless it has ascertained that the petitioner has exhausted all available domestic remedies. However, this shall not be the rule where the application of the remedies is unreasonably prolonged.

(b) The Committee shall forward its suggestions and recommendations, if any, to the State Party concerned and to the petitioner.

8. The Committee shall include in its annual report a summary of such communications and, where appropriate, a summary of the explanations and statements of the States Parties concerned and of its own suggestions and recommendations.

9. The Committee shall be competent to exercise the functions provided for in this article only when at least ten States Parties to this Convention are bound by declarations in accordance with paragraph 1 of this article.

Article 15

1. Pending the achievement of the objectives of General Assembly resolution 1514 (XV) of December 1960 concerning the Declaration on the Granting of Independence to Colonial Countries and Peoples, the provisions of this Convention shall in no way limit the right of petition granted to these peoples by other international instruments or by the United Nations and its specialized agencies.

2. (a) The Committee established under article 8, paragraph 1, shall receive copies of the petitions from, and submit expressions of opinion and recommendations on these petitions to, the bodies of the United Nations which deal with matters directly related to the principles and objectives of this Convention in their consideration of petitions from the inhabitants of Trust and Non-Self-Governing Territories, and all other territories to which General Assembly resolution 1514 (XV) applies, relating to matters covered by this Convention which are before these bodies.

(b) The Committee shall receive from the competent bodies of the United Nations copies of the reports concerning the legislative, judicial, administrative or other measures directly related to the principles and objectives of this Convention applied by the Administering Powers within the territories mentioned in sub-paragraph (a) of this paragraph and shall express opinions and make recommendations to these bodies.

3. The Committee shall include in its report to the General Assembly a summary of the petitions and reports it has received from United

Nations bodies, and the expressions of opinion and recommendations of the Committee related to the said petitions and reports.

4. The Committee shall request from the Secretary-General of the United Nations all information relevant to the objectives of this Convention and available to him regarding the territories mentioned in paragraph 2 (a) of this article.

Article 16

The provisions of this Convention concerning the settlement of disputes or complaints shall be applied without prejudice to other procedures for settling disputes or complaints in the field of discrimination laid down in the constituent instruments of, or in conventions adopted by, the United Nations and its specialized agencies, and shall not prevent the States Parties from having recourse to other procedures for settling a dispute in accordance with general or special international agreements in force between them.

PART III

Article 17

1. This Convention is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a party to this Convention.

2. This Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 18

1. This Convention shall be open to accession by any State referred to in article 17, paragraph 1.

2. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 19

1. This Convention shall enter into force on the thirtieth day after the date of the deposit with the Secretary-General of the United Nations of the twenty-seventh instrument of ratification or instrument of accession.

2. For each State ratifying this Convention or acceding to it after the deposit of the twenty-seventh instrument of ratification or instrument of accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or instrument of accession.

Article 20

1. The Secretary-General of the United Nations shall receive and circulate to all States which are or may become parties to this Con-

vention reservations made by States at the time of ratification or accession. Any State which objects to the reservation shall, within a period of ninety days from the date of the said communication, notify the Secretary-General that it does not accept it.

2. A reservation incompatible with the object and purpose of this Convention shall not be permitted, nor shall a reservation the effect of which would inhibit the operation of any of the bodies established by the Convention be allowed. A reservation shall be considered incompatible or inhibitive if at least two-thirds of the States Parties to this Convention object to it.

3. Reservations may be withdrawn at any time by notification to this effect addressed to the Secretary-General. Such notification shall take effect on the date on which it is received.

Article 21

A State Party may denounce this Convention by written notification to the Secretary-General of the United Nations. Denunciation shall take effect one year after the date of receipt of notification by the Secretary-General.

Article 22

Any dispute between two or more States Parties over the interpretation or application of this Convention, which is not settled by negotiation or by the procedures expressly provided for in this Convention, shall at the request of any of the parties to the dispute be referred to the International Court of Justice for decision, unless the disputants agree to another mode of settlement.

Article 23

1. A request for the revision of this Convention may be made at any time by any State Party by means of notification in writing addressed to the Secretary-General.

2. The General Assembly shall decide upon the steps, if any, to be taken in respect of such a request.

Article 24

The Secretary-General of the United Nations shall inform all States referred to in article 17, paragraph 1, of the following particulars:

- (a) Signatures, ratifications and accessions under articles 17 and 18;
- (b) The date of entry into force of this Convention under article 19;
- (c) Communications and declarations received under articles 14, 20 and 23;
- (d) Denunciations under article 21.

Article 25

1. This Convention, of which the Chinese, English, French, Russian

and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of this Convention to all States belonging to any of the categories mentioned in article 17, paragraph 1.